

MEMO ENDORSED

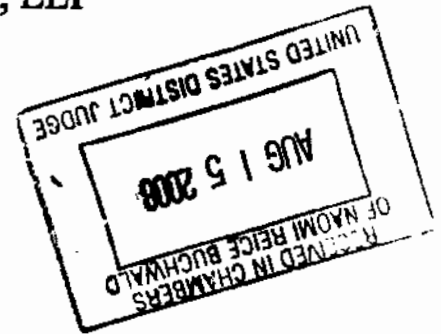
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August 15, 2008

By Telecopier to 212 805 7927 & Mail
The Hon. Naomi R. Buchwald
United States District Court for the Southern
District of New York
500 Pearl Street, Room 2270
New York, NY 10007

Re: Tombers v. FDIC, 08 Civ. 5068 (NRB) (ICF)

Dear Judge Buchwald:

Enclosed with the mailed copy hereof is the Court's courtesy copy of Declaration in Partial Opposition to Motion for Substitution.

The Court's August 11, 2008 set a new briefing schedule for plaintiff's motion to remand – but did not set a new briefing schedule for defendant's motion to dismiss which defendant earlier received permission to file. The defendant's motion to dismiss was originally scheduled to be briefed in tandem with the plaintiff's motion to remand (see attached briefing schedule ordered by the Court on June 27, 2008), and a new briefing schedule still needs to be set for this motion. As before, there is no need to have these motions filed and considered *seriatim* with the attendant delay. Therefore, we submit that defendant's motion to dismiss should be due on November 5, 2008, that the opposition brief should be filed November 14, 2008, and that the reply brief should be filed December 3, 2008.

Respectfully submitted,


Roger J. Bernstein

cc. Casey D. Laffey, Esq. (by e-mail)
Richard Gottlieb, Esq. (by e-mail)
Co-Counsel for Defendant

So
Referred
to
Hon.
Naomi
R. Buchwald
9/3/08

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